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8  
9 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No.

2010-459

12 **CAROL M. RYAN**  
13 **aka CAROL RYAN KRUBINSKI**  
14 **6351 Via Stasera**  
**Palm Desert, CA 92260**

**ACCUSATION**

15 **Registered Nurse License No. 363852**

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her  
21 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department  
22 of Consumer Affairs.

23 2. On or about August 31, 1983, the Board of Registered Nursing issued Registered  
24 Nurse License Number 363852 to Carol M. Ryan (Respondent). The Registered Nurse license  
25 was in full force and effect at all times relevant to the charges brought herein and will expire on  
26 July 31, 2011, unless renewed.

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## JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b), an expired license may be renewed at any time within eight years after expiration.

## STATUTORY PROVISIONS

6. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

(a) Considering the denial of a license by the board under Section 480; or

(b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

7. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

8. Section 493 of the Code states:

"Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the

1 ground that the applicant or the licensee has been convicted of a crime substantially related to the  
2 qualifications, functions, and duties of the licensee in question, the record of conviction of the  
3 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,  
4 and the board may inquire into the circumstances surrounding the commission of the crime in  
5 order to fix the degree of discipline or to determine if the conviction is substantially related to the  
6 qualifications, functions, and duties of the licensee in question.

7 "As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and  
8 'registration.'"

9 9. Section 2761 of the Code states:

10 "The board may take disciplinary action against a certified or licensed nurse or deny an  
11 application for a certificate or license for any of the following:

12 "....

13 "(f) Conviction of a felony or of any offense substantially related to the qualifications,  
14 functions, and duties of a registered nurse, in which event the record of the conviction shall be  
15 conclusive evidence thereof.

16 "...."

#### 17 REGULATIONS

18 10. California Code of Regulations, title 16, section 1444, states:

19 "A conviction or act shall be considered to be substantially related to the qualifications,  
20 functions or duties of a registered nurse if to a substantial degree it evidences the present or  
21 potential unfitness of a registered nurse to practice in a manner consistent with the public health,  
22 safety, or welfare. Such convictions or acts shall include but not be limited to the following:

23 "(a) Assaultive or abusive conduct including, but not limited to, those violations listed in  
24 subdivision (d) of Penal Code Section 11160.

25 "(b) Failure to comply with any mandatory reporting requirements.

26 "(c) Theft, dishonesty, fraud, or deceit.

27 "(d) Any conviction or act subject to an order of registration pursuant to Section 290 of the  
28 Penal Code."

1 11. California Code of Regulations, title 16, section 1445 states in pertinent part:

2 “....

3 “(b) When considering the suspension or revocation of a license on the grounds that a  
4 registered nurse has been convicted of a crime, the board, in evaluating the rehabilitation of such  
5 person and his/her eligibility for a license will consider the following criteria:

6 “(1) Nature and severity of the act(s) or offense(s).

7 “(2) Total criminal record.

8 “(3) The time that has elapsed since commission of the act(s) or offense(s).

9 “(4) Whether the licensee has complied with any terms of parole, probation, restitution or  
10 any other sanctions lawfully imposed against the licensee.

11 “(5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the  
12 Penal Code.

13 “(6) Evidence, if any, of rehabilitation submitted by the licensee.”

#### 14 COST RECOVERY

15 Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
16 administrative law judge to direct a licensee found to have committed a violation or violations of  
17 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
18 enforcement of the case.

#### 19 FIRST CAUSE FOR DISCIPLINE

20 (May 19, 2008 Conviction for Shoplifting on February 16, 2008)

21 12. Respondent is subject to disciplinary action under sections 490 and 2761,  
22 subdivision (f) of the Code in that Respondent was convicted of a crime that is substantially  
23 related to the qualifications, functions, and duties of a registered nurse. The circumstances are as  
24 follows:

25 13. On or about February 16, 2008, in a criminal proceeding entitled *The People of the*  
26 *State of California v. Carol Maureen Ryan aka Carol Ann Krubinski aka Carol Ann Benedict aka*  
27 *Carol Ryan Krubinski aka Carol Maureen Ryan Benedict*, in Riverside County Superior Court,  
28

1 case number INM185982, Respondent was convicted on her plea of guilty of violating Penal  
2 Code section 490.5, shoplifting.

3 a. As a result of the conviction, on May 19, 2008, Respondent was granted summary  
4 probation for a period of 12 months on terms including to obey all laws, pay victim restitution,  
5 and to stay away from Costco.

6 b. The facts that led to the conviction were that on or about February 16, 2008,  
7 Respondent entered Costco in Palm Desert, California and walked into the liquor aisle in the store  
8 and selected a bottle of Ketel One Vodka and placed it in her shopping cart. Respondent then  
9 pushed the shopping cart to an adjacent aisle and concealed the bottle in a black purse she was  
10 carrying. With the bottle concealed in her purse, she walked past the check stands which were  
11 manned and open for business and out the front door. Respondent did not attempt to purchase the  
12 bottle of vodka or declare its existence as she passed an employee at the front door. A Regional  
13 Loss Prevention Agent witnessed Respondent place the bottle of vodka in her black purse and  
14 contacted and detained Respondent outside the front door of the business and located the bottle of  
15 Ketel One Vodka in the purse Respondent was holding. He brought Respondent back into the  
16 store and questioned her regarding the incident. Respondent admitted that she stole the vodka  
17 because she was desperate. Respondent stated to the arresting officer that she knew that stealing  
18 a bottle of vodka was wrong; however, she is addicted to alcohol, and said that she has been  
19 addicted to alcohol for over 20 years.

## 20 SECOND CAUSE FOR DISCIPLINE

21 (March 25, 2009 Conviction for Burglary on December 26, 2008)

22 14. Respondent is subject to disciplinary action under sections 490 and 2761,  
23 subdivision (f) of the Code in that Respondent was convicted of a crime that is substantially  
24 related to the qualifications, functions, and duties of a registered nurse. The circumstances are as  
25 follows:

26 15. On or about March 25, 2009, in a criminal proceeding entitled *The People of the State*  
27 *of California v. Carol Maureen Ryan aka Carol Ann Krubinski aka Carol Ann Benedict aka*  
28 *Carol Ryan Krubinski aka Carol Maureen Ryan Benedict*, in Riverside County Superior Court,

1 case number INF064532, Respondent was convicted on her plea of guilty of violating Penal Code  
2 section 459, burglary.

3 a. As a result of the conviction, on March 25, 2009, Respondent was sentenced to 90  
4 days in the county jail, with a credit for one day, and formal probation for 16 months. The  
5 probation terms included that she obey all laws, complete the Secure Continuance Remote  
6 Alcohol Monitor (SCRAM) program, pay victim restitution, abstain from the use of alcoholic  
7 beverages, stay away from Vons in Rancho Mirage, California, and a Fourth Amendment waiver.

8 b. The facts that led to the conviction were that on December 26, 2008, Respondent was  
9 observed by a Vons' grocery store loss prevention officer putting the following items into her  
10 purse: 1 bottle of Ketel One vodka, 1 Colgate toothbrush, 1 bottle of Imodium A-D, 1 Relacore  
11 and 1 Fiber Choice, dietary aids. The loss prevention officer watched Respondent exit the store  
12 without attempting to pay for any items. The loss prevention officer identified himself and  
13 detained Respondent outside Vons. As he escorted her to the office, Respondent told the loss  
14 prevention officer that she had made a mistake, and asked him to please let her go. He then took  
15 Respondent back to the loss prevention office and recovered the stolen items from her purse and  
16 jacket. The police were called and as the officer interviewed the loss prevention officer,  
17 Respondent interrupted him several times to plead with him to let her go. The officer told her he  
18 couldn't do that. She stated, "I have a problem and I need help. Please don't do this." The loss  
19 prevention officer showed the officer Respondent's black purse, where she had concealed the  
20 items. The purse was completely empty, except for a magazine across the bottom. The loss  
21 prevention officer explained this was a common tactic used by shoplifters to give the appearance  
22 of a full bag, when in fact it was empty. Respondent was arrested.

#### 23 DISCIPLINE CONSIDERATIONS

24 16. To determine the degree of discipline, if any, to be imposed on Respondent,  
25 Complainant alleges Respondent has been subject to disciplinary proceedings before the Board  
26 previously. First, on March 7, 1991, in Case Number 90-99, Respondent's license was revoked,  
27 but the revocation was stayed and Respondent was placed on probation for 3 years. Respondent  
28 had possessed the controlled substances Demerol, Morphine, Hydromorphone and Phenobarbital,

1 in violation of Health and Safety Code section 11173, subdivision (a) and misrepresented on  
2 hospital records that she had withdrawn the medications for patients, when in fact, she had  
3 withdrawn them for her own use. That decision is now final.

4 17. Second, on April 3, 1992, in Accusation Case Number 92-28, Respondent's license  
5 was revoked under Business and Professions Code section 2761, subdivision (a) on the grounds  
6 of unprofessional conduct as defined in section 2762, subdivision (a). On January 31, 1991,  
7 while on duty as a registered nurse at Loma Linda Community Hospital, Loma Linda, California,  
8 Respondent had obtained 50 mg. of Demerol by fraud, misrepresentation or subterfuge in  
9 violation of Health and Safety Code section 11173, subdivision (a) by misrepresenting that she  
10 obtained the substance for a patient, when in fact she had obtained it for her own use. That  
11 decision is now final.

12 18. On September 13, 1993, Respondent filed a Petition for Reinstatement of her revoked  
13 license and the petition was denied. That decision is now final.

14 19. Respondent sought reinstatement a second time in her petition filed on February 3,  
15 1995. Respondent's Petition for Reinstatement was granted and a license was issued to  
16 Respondent, but immediately revoked, with the revocation stayed and Respondent placed on  
17 probation for three years based on various terms and conditions. On February 2, 1998,  
18 Respondent successfully completed probation. That decision is now final.

19 20. Discipline considerations are summarized as follows:

20 March 12, 1990, first Accusation filed;

21 March 7, 1991, license revoked, but was stayed and probation imposed for three years;

22 September 13, 1991, second Accusation filed;

23 April 3, 1992, license revoked;

24 February 3, 1995, license reinstatement granted with probation for three years.

25 February 2, 1998, successful completion of probation.

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PRAYER

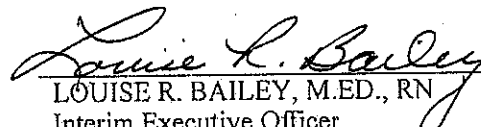
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 363852, issued to Carol M. Ryan;

2. Ordering Carol M. Ryan to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

3. Taking such other and further action as deemed necessary and proper.

DATED: 3/22/10

  
LOUISE R. BAILEY, M.ED., RN  
Interim Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

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